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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,651	02/09/2004	Jeffrey A. Winnie	1345-001/DDH	1450
21034	7590	10/19/2005	EXAMINER	
IPSOLON LLP			FOREMAN, JONATHAN M	
805 SW BROADWAY, #2740			ART UNIT	
PORTLAND, OR 97205			PAPER NUMBER	

3736

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/775,651

Applicant(s)

WINNIE, JEFFREY A.

Examiner

Jonathan ML Foreman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

1. Claim 17 is objected to because of the following informalities: line 2 states "surface *if* said hoof". Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 - 8 and 10 – 15 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 4,302,971 to Luk.

In regards to claims 1 - 8 and 10 - 15, Luk discloses a temperature sensitive module capable of providing a visual indication of the temperature of a hoof to which the module is affixed. The visual indication of the temperature is indicated by a color (Col. 2, lines 38 - 58). The visual indication correlates to a numeric value. The numeric value is correlated to a color (Col. 5, lines 29 - 61). Luk discloses at least 3 individual temperature sensing modules (Figures 1 and 2). The module is configured for changing color when a predetermine value has been exceeded (Col. 2, lines 64 - 65). The color change is reversible. Luk discloses means for adhering the module to a hoof (Col. 3, lines 64 - 67). The module comprises a temperature sensitive strip (Figure 3) configured for changing color in response to a change in temperature.

4. Claims 1 - 4, 7, 9 - 13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 4,469,452 to Sharpless et al.

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In regards to claims 1 - 4, 7, 9 - 13 and 15, Sharpless et al. discloses a temperature sensitive module capable of providing a visual indication of the temperature of a hoof to which the module is affixed. The visual indication of the temperature is indicated by a color (Col. 10, lines 7 - 13). The visual indication correlates to a numeric value. The numeric value is correlated to a color. The module is configured for changing color when a predetermine value has been exceeded (Col. 9, lines 41 - 46). The color change is irreversible (See Abstract). Sharpless et al. discloses means for adhering the module to a hoof (Col. 9, lines 38 - 39). The module comprises a temperature sensitive strip configured for changing color in response to a change in temperature (Col. 10, lines 7 - 13).

5. Claims 1 - 4, 7, 10 - 16 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by GB 2145224 to Dennis.

In regards to claims 1 - 4, 7, 10 - 16 and 20, Dennis discloses a temperature sensitive module capable of providing a visual indication of the temperature of a hoof to which the module is affixed. The visual indication of the temperatures is indicated by a color (Col. 1, lines 8 - 11). The visual indication correlates to a numeric value. The numeric value is correlated to a color. The module is configured for changing color when a predetermine value has been exceeded (Col. 1, lines 8 - 11). The color change is reversible. Dennis discloses means for adhering the module to a hoof (Col. 1, lines 25 - 29). The module comprises a temperature sensitive strip configured for changing color in response to a change in temperature (Col. 1, lines 12 - 19). Dennis discloses monitoring the temperature of an animal's hoof including adhering a temperature sensitive module to a hoof, where the module is configured for providing a visual indication of the temperature of the hoof (Col. 2, lines 85 - 87).

6. Claims 1 - 4, 7, 9 - 13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 4,509,533 to Chervitz.

In regards to claims 1 - 4, 7, 9 - 13 and 15, Chervitz discloses a temperature sensitive module capable of providing a visual indication of the temperature of a hoof to which the module is affixed. The visual indication of the temperature is indicated by a color (See Abstract). The visual indication correlates to a numeric value (Col. 3, line 66 - Col. 4, line 3). The numeric value is correlated to a color (Col. 3, lines 30 - 32). The module is configured for changing color when a predetermine value has been exceeded (Col. 3, lines 60 - 63). Chervitz discloses means for adhering (11) the module to a hoof. The module comprises a temperature sensitive strip (Figure 3) configured for changing color in response to a change in temperature.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 17 - 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB 2145224 to Dennis.

In regards to claims 17 - 19, Dennis discloses adhering the module to a hoof by exposing an adhesive backing on the module and applying the module to the hoof (Col. 1, lines 29 - 35; Col. 2, lines 85 - 87). Dennis discloses applying glue to the module (Col. 2, lines 76 - 78). Dennis fails to disclose abrading the surface of the hoof, cleaning the hoof, and allowing the surface to dry. However, it is well known that adherence between an object and a surface can be increased by abrading the surface to which the object is being adhered to. Also, it is well known that the surface should be cleaned and allowed to dry so that there are no dust or dirt particles on the surface prior

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to the adherence. Official notice is be taken of these facts. As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to abrade the hoof, clean the hoof, and allow the hoof to dry prior to adhering the module to the hoof in order to increase adhesion between the module and the hoof.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan ML Foreman whose telephone number is (571)272-4724. The examiner can normally be reached on Monday - Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571)272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JMLF


MAX F. HINDENBURG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700